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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/494,198	01/28/2000	James P. Mitchell	00CR064/KE	3140

7590 03/07/2007
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EXAMINER

TRINH, SONNY

ART UNIT	PAPER NUMBER
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2618

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/494,198

Applicant(s)

MITCHELL, JAMES P.

Examiner

Sonny TRINH

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-28 is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 09/28/06 have been fully considered but they are not persuasive.

In response to applicant's argument that the Hiett's reference is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

In this case, the Applicant attempts to overcome the Hiett's reference by suggesting that "...Claims 1 and 8 were previously amended to recite that the direct broadcast very low range receiver is "limited to receiving signals transmitted from within a very short range." In this way, several mobile platforms can communicate to several docking areas without interference and without utilizing different frequency ranges. (Application, p. 16, lines 13-17). This limitation was not addressed by the Examiner in the received Office Action. As stated in the previous Office Action "...limitation and the advantage it provides cannot be realized by the system of Hiett configured to operate at any distance within the airport, and therefore is not taught nor suggested by Hiett. An assertion that the system of Hiett can operate at any distance is not a teaching nor

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suggestion of a direct broadcast very low range receiver that is "limited to receiving signals transmitted from within a very short range." Accordingly, each and every limitation of amended claims 1 and 8 is neither taught nor suggested by the references cited by the Examiner..."

The Examiner did not reject the claims 1-2, 4-9, 11-14, 16-17 based on the 35 USC § 102 but instead used the 35 U.S.C. 103(a) rejection that the invention is being unpatentable over Hiett. The deficiency in Hiett (i.e. "the received signals are transmitted from within a very short range.") was supported by the reasoning and motivations given by the decision by the Board of Appeal and Interference (Decision on 01/19/2006, pages 4-13).

Therefore, the Examiner is not persuaded that Hiett is a non analogous art nor it cannot be modified in anyway the meet the requirement of a "very limited/short distance".

The previous Office action is hereby repeated.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4-9, 11-14, 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiett ("Hiett"; Patent No. 6,477,152).

Consider **claim 1**. Hiett teaches the apparatus and method for data communications for a mobile platform (figures 3-5, 7, detailed descriptions, abstract), comprising a very low range (column 9 lines 28-31, "infrared signals") broadcast receiver located on the mobile platform (figure 5, element 506), and

a computer network (figure 5, router 308, LAN 304 and user interface 302) including at least one terminal on the mobile platform (columns 4-5, specifically lines 22-31 of column 5), the terminal providing Internet access through the direct broadcast receiver (column 1 lines 40-57, column 2 lines 59-67).

However, Hiett does not explicitly disclose that the received signals are transmitted from within a very short range.

However, it would have been obvious that the teachings of Hiett would have suggested to an artisan that the in-airport ground-based transmitter, transmits, inter alia, over a very low range less than a few meters). Since the ground-based system is intended for use with aircraft operating within the airport area, and that an artisan would have considered it obvious to operate the ground-based airport LAN with aircraft near or at a gate of the airport, communicating, using cellular or infrared communications, etc., with the aircraft receiver 106, via interface 506, over distances as short as less than a few meters. That is, from the disclosure of a ground-based system operating within 1000 feet of the airport, would flow from the disclosure that it would have been obvious to operate the system of Hiett from 1000 feet down to zero feet or within a few meters.

As the disclosure of Hielt would have suggested to an artisan a range that overlaps the range of the claim, according to *In re Malacari*, 499 F.2d 1297, 1302, 182 USPQ 549, (CCPA 1974), an overlapping range is at least *Prima facie* obvious.

Regarding **claim 8**, this claim includes all the limitations of claim 1 and further specifies “a distance of less than a few meters the direct broadcast receiver being limited to receiving signals transmitted from within a very short range”. Claim 8 is similarly rejected with the reasons set forth above.

Regarding **claims 2 and 9**. Hielt discloses that the Internet access is interactive access for providing commands (column 3 lines 4-15).

Regarding **claims 4 and 11**, Hielt further discloses that the mobile platform is a boat (column 2, specifically lines 55-58).

Regarding **claims 5 and 12**, Hielt further discloses that the mobile platform is an automobile (column 2, specifically lines 55-58).

Regarding **claims 6 and 13**. Hielt further discloses that the mobile platform is a train (column 2, specifically lines 55-58).

Regarding **claims 7 and 14**, Hielt further discloses that the mobile platform is an aircraft (column 2, specifically lines 55-58, figures 3-5).

Regarding **claims 16-17**, Hielt further discloses that the commands are forwarded to an Internet service provider and the Internet service provider responds to the commands via the direct broadcast receiver (column 1 lines 40-58).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 3, 10 and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiett ("Hiett"; Patent No. 6,477,152) in view of LaRocca et al. ("LaRocca "; Patent No. 6,314,572).

Regarding **claims 3 and 10**, Hiett discloses the invention including the internet connection via a satellite transmission (figures 3-5) but does not explicitly disclose that the communication system includes a back channel transmitter. In an analogous art, LaRocca teaches a method and apparatus for providing subscription on demand services for an interactive information distribution system. LaRocca further discloses that the communication system includes a back channel transmitter (figure 2, block 208, column 6 line 57 to column 7 line 65).

Since the system of Hiett is about an onboard entertainment system with user interactive control; and since LaRocca is also deals with an interactive information distribution system, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, within the interactive onboard entertainment system of Hiett, the back channel transmitter, as taught by LaRocca in order for a user to interactively send control command(s) to the system to obtain the desired information such as which program (channel) to watch.

Regarding **claim 15**, since the system of Hiett is about an onboard entertainment system with user interactive control using the internet connection from the mobile platform to a terrestrial receiver (figures 3-5 of Hiett); and since LaRocca also deals with an interactive information distribution system including and the back channel transmitter (figure 2 of LaRocca) for the interactive commands. It would have been obvious to use the interactive system of Hiett to send commands to the internet via the terrestrial receiver utilizing the interactive system with back channel transmitter of LaRocca.

Allowable Subject Matter

4. **Claims 18-28** are allowed following the remarks presented by Applicant filed 12/19/03 (paper number 7) pages 9-12.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonny TRINH whose telephone number is 571-272-7927. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed URBAN can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

2/27/07


SONNY TRINH
PRIMARY EXAMINER